

**BEFORE THE NEW HAMPSHIRE
PHYSICAL THERAPY GOVERNING BOARD
OFFICE OF ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

**John J. Lyons, PTA
License #0789
(Adjudicatory/Disciplinary Proceeding)**

Docket No. 09-001

ORDER

Before the New Hampshire Physical Therapy Governing Board is an adjudicatory proceeding involving a disciplinary action regarding John J. Lyons, PTA ("Mr. Lyons" "Respondent").

By the Board: Greg Woodsum, PT Chairperson and Hearing Officer
 Laurel Clute, PT
 Martha B. Aguiar, Public Member
 James H. Bradley, Public Member
 Ronald Fuller, PTA

Appearances: Attorney Catherine L. Bernhard for the Prosecution
 Tina M. Kelley, Administrator
 John J. Lyons, PTA

BACKGROUND INFORMATION

Mr. Lyons was initially licensed as a Physical Therapist Assistant in New Hampshire on November 20, 2002, holding license number 0789. Mr. Lyons filed a renewal application with the Board dated December 27, 2008. The renewal application was received by the Board on December 30, 2008. On December 31, 2008, the Board sent Mr. Lyons a notice that he was selected as part of a random audit of his participation in those continuing education courses reported on his renewal application. The letter explained the audit's requirement and instructed Mr. Lyons to provide the Board with specific documentation of his continuing education credits no later than February 1, 2009. The Board received no response from Mr. Lyons to this letter.

On February 6, 2009, Mr. Lyons was sent a second notice from the Board and requested him to provide the required documentation no later than February 20, 2009. The Board received no response to this request. Both letters were sent to the address included on the renewal application which was the last known address for Mr. Lyons in the possession of the Board.

On March 19, 2009 the Physical Therapy Governing Board referred the information regarding Mr. Lyons audit to the State of New Hampshire Attorney General's Administrative Prosecutions Unit requesting assistance in contacting Mr. Lyons. Hearing Counsel wrote to Mr. Lyons at the same address listed on his renewal application via certified mail on March 25, 2009, April 29, 2009, and May 27, 2009. Mr. Lyons did not respond to any of the letters.

On May 19, 2009, May 20, 2009, and July 10, 2009 Hearing Counsel left telephone messages at Mr. Lyons place of business requesting a call back. Hearing Counsel confirmed that Mr. Lyons was working at the business listed on his renewal application. She was told that he was out visiting patients.

On May 22, 2009 Hearing Counsel left a message on Mr. Lyons's home telephone answering machine. These messages were general in nature, but indicated the importance of a call back. Hearing Counsel did not hear from Mr. Lyons.

On July 13 2009, Hearing Counsel left a message at Mr. Lyons place of business with another request that he return the call. Mr. Lyons later telephoned Hearing Counsel and agreed to provide a full response for the Board's review at the July meeting. Mr. Lyons was mistakenly told that the Board met on Friday, July 17, 2009 instead of Wednesday, July 15, 2009. Hearing Counsel left a telephone message for Mr. Lyons on Tuesday July 14, 2009 and provided the correct date by which he had to have the response for the Board.

On July 15, 2009 Mr. Lyons provided Hearing Counsel with a faxed letter stating that he took a CPR class in October of 2009 for which he could provide a copy of in 2 weeks, once he returned to his home. He also stated that he had not taken the Neurology on December 28, 2008 and Lumbo Pelvic on December 29, 2008 as indicated on his renewal application. He did indicate that he had taken 2 short in-service trainings, the first on January 21, 2009 for 1 hour and the second on January 23, 2009 for 2 hours. No evidence of Mr. Lyons' attendance or completion of these in-service trainings was provided with the fax.

On July 31, 2009 Mr. Lyons provided hearing counsel with a faxed copy of his CPR card indicating the course was taken on August 20, 2008.

On October 29, 2009 Mr. Lyons provided hearing counsel with a fax indicating that he had taken 2 on-line courses. The documentation provided in the fax was a receipt for having paid for the course titled "Lumbo-Pelvic Certification Program" and the second was a copy of a certificate of completion for the course titled "Neuroscience - Anatomy and Physiology" for a total of 15 contact hours.

During the hearing held on December 16, 2009 Mr. Lyons provided the Board with a certificate of completion for the course titled "Lumbo-Pelvic-Evaluation, Mobilization, & Stabilization" for a total of 15 contact hours.

FINDINGS OF FACT

1. Mr. Lyons submitted his renewal application reporting to the Board that as of December 31, 2008, he would have completed his continuing education requirements for the renewal period January 1, 2007 through December 31, 2008. The renewal application listed two courses which he proposed to complete prior to December 31, 2008. Mr. Lyons did not complete 17 of the required contact hours for continuing education in violation of RSA 328-A:15-a I.(b) and Phy 406.01.
2. Mr. Lyons was selected at random to be included in a group of 10% of the Board's licensees who are required to participate in the random audit of continuing education hours. The list of participants is generated at random when the renewal application is created and mailed to the licensee. Mr. Lyons was mailed the notification about the audit along with his 2009 renewed license.
3. Mr. Lyons did not respond to a second notice sent to him on February 6, 2009 by the Physical Therapy Governing Board's office. Mr. Lyons further did not respond to three letters sent to him by hearing counsel. Mr. Lyons failure to respond to the Board's requests to provided documentation of his continuing education. This conduct was found by the Board to be in violation of RSA 328-F:15-a, II and RSA 328-F:18, II and RSA 328-F:19, II, Phy 402.08, Phy501.03 and the APTA Guide for Conduct of Physical Therapists Assistants, Ethical Standards for Physical Therapist Assistants Standards 4 and 4.1.

3. On his renewal application Mr. Lyons reported taking two continuing education courses, the first scheduled for December 28, 2008 titled "Neurology" for 15 contact hours and the second scheduled for December 29, 2008 titled "Lumbo Pelvic" for 15 contact hours. Mr. Lyons reported to the Board on July 15, 2009 why he could not take these courses. He indicated that he was sick for a period of two weeks when he had originally planned to take the courses in December of 2008.
He stated next that his computer broke down, and he lost Internet service. Mr. Lyons indicated that he had financial troubles at this time and could not afford to register to take the courses.
4. At the Hearing, Mr. Lyons stated that he did not open the envelope containing his license and the notification of the audit until several months had past. He explained that he was not working in New Hampshire at the time and he assumed that the envelope from the Board contained only his renewed license. Mr. Lyons stated that when he realized what he was required to do as part of the audit, he was too embarrassed to contact the Board to explain his financial situation and his failure to take the courses. Mr. Lyons acknowledged that he was required to complete the continuing education listed on the renewal application in a timely fashion. The Board found that this conduct was in violation of RSA 328-F:23, II (a) and (c), Phy 402.08(c).

THEREFORE IT IS ORDERED, Mr. Lyons is fined in the amount of \$500.00 to be paid in two installments of \$250.00 each. The first payment is due no later than February 16, 2010 and the second payment is due March 16, 2010.


IT IS FURTHER ORDERED, That Mr. Lyons' continuing education taken on October 12, 2009 titled "Neuroscience, Anatomy & Physiology" for 15 hours of continuing education and the course taken October 28, 2009 titled "Lumbo-Pelvic Evaluation, Mobilization, & Stabilization" will be used to satisfy the continuing education requirement for the renewal year 2007. Mr. Lyons *cannot* use these two courses taken in 2009 towards his 2010 renewal.

IT IS FURTHER ORDERED, That Mr. Lyons' continuing education be audited for three renewal cycles commencing with the next renewal cycle.

IT IS FURTHER ORDERED, That Mr. Lyons provide a copy of this order to the Massachusetts Physical Therapy Governing Board.

BY ORDER OF THE BOARD

Date: January 20, 2010



Greg Woodsum, PT, Chair
Physical Therapy Governing Board